

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION
COLUMBUS, OHIO

ANDREW LEWIS

2595 Elliott Avenue
Columbus, Ohio 43204

and

SAMANTHA LEWIS

2595 Elliott Avenue
Columbus, Ohio 43204

Plaintiffs,

vs.

**HEARTHSIDE FOOD
SOLUTIONS, LLC**

c/o CSC Lawyers Incorporating Service
50 W. Broad Street
Suite 1800
Columbus, Ohio 43215

and

MARS PETCARE US, INC.

c/o CT Corporation System
1300 East Ninth Street
Cleveland, Ohio 44114

and

RYT-WAY INDUSTRIES, LLC

21850 Grenada Avenue
Lakeville, Minnesota 55044

and

**TOLL PACKAGING GROUP, LLC
AKA DONLEY PORTFOLIO, LLC**

2511 Galen Drive
Champaign, Illinois 61821

CASE NO.: 2:13-cv-823

JUDGE:

and :
TOLL PACKAGING SERVICES, LLC :
21850 Grenada Avenue :
Lakeville, Minnesota 55044 :

and :
KAL KAN FOODS, INC. :
6885 Elm Street :
McLean, Virginia 22101 :

and :
KNIGHT TRANSPORTATION :
SERVICES, INC. :
c/o CT Corporation System :
1300 East Ninth Street :
Cleveland, Ohio 44114 :

and :
JOHN DOES #1-15 :
Address Unknown :

And :
XYZ CORPORATIONS #1-10 :
Address Unknown :

Defendants.

COMPLAINT

Recitals:

1. Plaintiffs Andrew Lewis and Samantha Lewis are citizens and residents of Franklin County, Ohio residing at 15886 Behner Road, Columbus.
2. At all times relevant herein, Defendant Hearthside Food Solutions, LLC (hereinafter referred to as “Hearthside”) was a corporation licensed and doing business in the State of Ohio with its principle place of business located in Wilmington, Delaware.

3. At all times relevant herein, Defendant Mars Petcare US, Inc. (hereinafter referred to as “Mars”) was a corporation licensed and doing business in the State of Ohio with its principle place of business located in McLean, Virginia.
4. At all times relevant herein, Defendant Ryt-Way Industries, LLC (herein after referred to as “Ryt-Way”) and Defendant Toll Packaging Services, LLC, were corporations conducting business in the State of Ohio with their principle places of business located in Lakeville, Minnesota.
5. At all times relevant herein, Defendant Kal Kan Foods, Inc. (hereinafter referred to as “Kal Kan”) was a corporation conducting business in the State of Ohio with its principle place of business located in McLean, Virginia.
6. At all times relevant herein, Defendant Toll Packaging Group, LLC aka Donley Portfolio, LLC was a corporation conducting business in the State of Ohio with their principle place of business located in Champaign, Illinois.
7. At all times relevant herein, Defendant Knight Transportation Services, Inc. (hereinafter referred to as “Knight”) was a corporation licensed and doing business in the State of Ohio with its principle place of business located in Phoenix, Arizona.
8. At all times relevant herein, Defendants John Doe #1-15 and Defendants XYZ Corporation #1-10 (whose names and addresses are thus far unknown and could not be ascertained despite reasonable diligence on the part of the Plaintiff) are additional parties who, in furtherance of their employment or business in Ohio:
 - a. Are persons, entities, corporations, or individuals, whether within or outside the course and scope of their employment with any other named defendant(s), who are liable to the Plaintiffs for causing or contributing to the injuries sustained by

Plaintiff Andrew Lewis and the damages associated thereto which would include but not be limited to other individuals that packaged the pet food / product, palletized the product, wrapped the product, loaded and/or packed the trailer, secured the product inside the trailer, and/or individuals that drove the trailer and/or parked it in Ohio;

- b. Are additional persons, entities, corporations, or individuals, who were contracted or subcontracted by any of the other named defendants and are liable to the Plaintiffs for causing or contributing to the injuries sustained by Plaintiff Andrew Lewis and the damages associated thereto.
 - c. Are additional persons, entities, corporations, unincorporated associates or individuals who directed the conduct of agents and/or employees of Defendant(s) and, but whose direction and control the incident alleged herein occurred and/or are corporations, entities or unincorporated associates responsible for the actions and inactions that resulted in injury Plaintiff Andrew Lewis.
9. Defendants Mars, Hearthside, Ryt-Way, Toll Packaging Services, LLC, Kal Kan, Toll Packaging Group, LLC, Knight, John Does #1-15 and Defendants XYZ Corporations #1-10, whether jointly or independently, were persons or enterprises engaged in the packaging, palletizing, wrapping, loading, securing and/or transporting of pet food and/or products.
10. On or about November 2, 2011, Plaintiff Andrew Lewis was injured after the pet food / product, which had been packaged, palletized, wrapped, loaded, secured and/or transported by one or more of the named defendants, fell out of a transportation trailer on to him at a DB Schenker yard located at 3051 Creekside Parkway, Lockbourne, Ohio.

11. As a direct and proximate result of the incident, Plaintiff Andrew Lewis has incurred and will continue to incur on and into the future medical bills.
12. As a direct and proximate result of the incident, Plaintiff Andrew Lewis has sustained and will continue to sustain a loss of income on and into the future.
13. As a direct and proximate result of the incident, Plaintiff Andrew Lewis has sustained and will continue to sustain into the future pain and suffering of the body and mind.
14. As a direct and proximate result of the incident, Plaintiff Andrew Lewis has sustained and will continue to sustain a loss of enjoyment of life.
15. As a direct and proximate result of Plaintiff Andrew Lewis's injuries, Plaintiff Samantha Lewis has incurred and may continue to incur in the future, a loss of income.
16. As a direct and proximate result of Plaintiff Andrew Lewis's injuries, Plaintiff Samantha Lewis has been deprived of the service, society and consortium of her husband, Andrew Lewis.
17. As a direct and proximate result of the November 2, 2011, the Plaintiffs have encountered financial hardship and distress.
18. Jurisdiction and venue are appropriate for the United State District Court for the Southern District of Ohio, Eastern Division.

Count One:

19. Plaintiffs hereby incorporate all the allegations contained in paragraphs one (1) through eighteen (18) as if fully rewritten herein.
20. Defendants Mars, Hearthside, Ryt-Way, Toll Packaging Services, LLC, Kal Kan, Toll Packaging Group, LLC, Knight, John Does #1-15 and Defendants XYZ Corporations #1-10 were reckless and/or negligent in the packaging, palletizing, wrapping, loading,

securing and/or transporting of the pet food / product and/or the transportation trailer.

Furthermore, said Defendants demonstrated a conscious disregard for the safety of the Plaintiffs.

21. As a direct and proximate result of the Defendants' recklessness, negligence and/or conscious disregard for the safety of the Plaintiffs as described above, Plaintiff Andrew Lewis was injured.

22. As a direct and proximate result of the Defendants' recklessness, negligence and/or conscious disregard for the safety of the Plaintiffs as described above, the Plaintiffs sustained the damages set forth in paragraphs ten (10) through seventeen (17).

Count Two:

23. Plaintiffs hereby incorporate all the allegations contained in paragraphs one (1) through twenty-two (22) as if fully rewritten herein.

24. At all times relevant herein and in connection with all claims raised by this complaint, one or more of the named defendants to this action may have contracted, hired and or otherwise engaged the services of any of the other named defendant(s) creating a master/servant and/or employer/employee, relationship and through agency principles, are liable for any of the acts and/or omissions of said agent(s) through the doctrine of respondeat superior.

Count Three:

25. Plaintiff incorporates all the allegations contained in paragraphs one (1) through twenty-four (24) as if fully rewritten herein and states for the third claim that Defendants Mars, Hearthside, Ryt-Way, Toll Packaging Services, LLC, Kal Kan, Toll Packaging Group, LLC, Knight, John Does #1-15 and Defendants XYZ Corporations #1-10 actions or

omissions demonstrated a willful, wanton and malicious disregard for the safety of others including the plaintiffs in this lawsuit and the defendants are liable to the plaintiffs for punitive damages due to said conduct which caused plaintiffs to sustain the injuries and damages described above.

Count Four:

26. Plaintiff incorporates all the allegations contained in paragraphs one (1) through twenty-five (25) as if fully rewritten herein and states for the fourth claim that one or more of the named defendants failed to adequately train, supervise and control one or more of any of the other named defendants and as a direct and proximate result of the defendants' willful, wanton and malicious disregard for the safety of others including the plaintiffs named in this lawsuit, the defendant(s) are liable to the plaintiffs for punitive damages for the acts and omissions as alleged in this complaint which caused the plaintiff to sustain the injuries, illness and damages described above.

WHEREFORE, Plaintiffs demand judgment against the Defendants for an amount in excess of Seventy-Five Thousand Dollars (\$75,000.00) and punitive damages in excess of Seventy-Five Thousand Dollars (\$75,000.00) plus court costs and interest to be assessed from the date of the subject incident as well as any other relief provided in equity or law.

Respectfully Submitted,

s/ Sydney S. McLafferty

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